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Petitioner's Name: Anadish Kumar Pal
Application No. 09/781/090
Filing Date: 01/12/2001

Renewed Petition Under 37 CFR 1.181

Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler*

The petitioner thanks the Office for the pointed evidences that the Office has called for in order to consider the petitioner's renewed request to withdraw the holding of abandonment. The petitioner being a foreign national applying from his native country, without any prior experience in such matters, it helps him to know what all the Office would like to know to be convinced about the non-receipt of mail at the applicant's address.

The petitioner has been able to piece together considerable volume of data that might be helpful for determining the circumstances and factors surrounding the working of mail delivery system to his address.

The correspondence address to which the Office sends the letters is the residence of the petitioner. It is a single-story house of 1200 square feet covered area constructed on a 300 square-yard plot. The plot is in the name of the petitioner's father, Ajit Kumar Pal, who is a retired university teacher. The residential locality called Vaishali houses 230 plots of 275 or 300 square yards. The residents of Vaishali are mostly known to each other, because the teachers of the Delhi University developed the colony as a cooperative. The petitioner lives and works from his residence (that is 194 Vaishali, Pitampura). His father and his wife stay with him. There is his and his father's residence of proof attached to this petition (ANNEXURE 1). The petitioner's father, Ajit Kumar Pal, being a retired man of 73 years of age, always remains home. Even in the case of a letter bearing the petitioner's house number erroneously as 94, the postman makes out from the name and delivers the letter to the petitioner's residence. The petitioner's wife even after marriage (in 2000) retained her maiden surname. Letters addressing her as Ritu Chowdhary or Ritu Pal (which are mostly from her family in Jammu Tawi, Jammu and Kashmir), reach the petitioner's address with equal ease (ANNEXURE 2).

The petitioner had been retaining the covers of each and every letter received from the Office painstakingly. Photocopies of every received letter's cover with letter inside are send along with the petition. ANNEXURE 3 contains the photocopies on both sides of the pages the actual two sides of 24cm X 31 cm yellow-colored envelopes dispatched by the Office. ANNEXURE 4 contains likewise the photocopies of white-colored envelopes of 10.4cm X 24cm sent by the Office. Inspection of ANNEXURE 3 would reveal that on page 6 is an Indian postmark bearing "09.12 02" -- this shows 9th December 2002 (here the first two digits indicate days of the month followed by the digits for the month). It is evident that the petitioner had regularly been receiving letters dispatched by the Office.

Interestingly the Office Action from the Director's Office, to which the petitioner is responding, itself has a typographic error in the form of Delhi printed as "Deli" (ANNEXURE 11), with the PIN code correctly printed as 110034 (PIN code is the Indian equivalent of ZIP in USA). At this point the petitioner would also discuss some discrepancy between the local authorities and the central postal database on the matter of the PIN code for Pitampura. In the fall of 2001, the petitioner's locality people were informed about the change of PIN code for their locality by the local postal-service people; while a search over the net still returns PITAMPURA for the PIN code 110034, that search is not able to come up with any answers when asked for PIN code 110088 (ANNEXURE 5 has the actual printouts of a recent effort). The site searched was the official Indian Postal Department's site. <http://www.indiapost.org/>. This ambiguity in designating a PIN code for Pitampura is very confusing for the residents. Though, letters regularly keep getting delivered with any of the two sets of PIN codes –or for that matter, even without any PIN code. The reason for this could be ascribed to the fact that the postal service in India is highly personalized. The postman has a mental picture of the world he moves around. The credibility of an addressee is somewhat dependent upon the kind of rapport he has with the addressee; and to foster that rapport regular tips have to be given to the postman.

ANNEXURE 2 has 5 Nos. of actual letters or covers received at the petitioner's correspondence address. It would be noted that the postmark on page 6 of the ANNEXURE 2 bears the PIN code 110034, which is as recent as 31st January 2003. This cover had a letter for the petitioner's wife from Japan.

Still, while analyzing the postmarks on many letters received by the petitioner, the petitioner decided to go with the numbering system used by the local postal department – in spite, of its being unknown to the central database – and fill up CHANGE OF CORRESPONDENCE ADDRESS Application. Though, the petitioner does not know whether this application would be held valid in the present state of his patent application being held abandoned. The petitioner is apologetic about his not knowing fully well about the finer points of prosecution of a patent application, on the account of his being a foreign national with modest financial means. If he had the financial capabilities of having the services of an attorney or an agent to his disposal, he would have been able to prosecute his application much more flawlessly. Recently, in the beginning of 2003, an extra digit 2 has been added to all the land numbers in India. Which finds mention in the above-mentioned application.

The petitioner was introduced to US Patents Office by his friend (now a Canadian citizen) Harkirat S. Bajaj. He is a chartered accountant. Harkirat's office file became the petitioner's personal patent file after Harkirat's departure. Now this green file is worn out and weighs a good 2 kilos. Thereafter the petitioner started a new file titled AIRFOIL DESIGN, after his third provisional patent application in May 2002. Photocopies of the file covers are in ANNEXURE 6. The petitioner's entire patent-related papers are kept inside these two files, with all the papers tied together.

Till the petitioner received the notice that his patent application had been held abandoned due to the applicant's non reply to a notice sent in January from the Examiners Office, the petitioner never had received any notice with reply deadlines from the Office. This patent application (now held abandoned) (No.09/781,090) being his first patent application ever. The petitioner was familiar with the one-year duration from the date of a provisional patent application, in which he was to file a non-provisional patent application to get the benefits of the prior provisional filing date. Therefore, prior to the notice of abandonment, the petitioner had two non-provisional patent applications and one provisional patent application to take care of, that too without having received any notice from any Examiners. As filing for US Patents were very important to an ordinary Indian, it was rather easy for the petitioner to remember couple of yearly deadlines.

As suggested by the Office, a search again was conducted around the place the files are kept, but the letter in question was not found. In this context it would be interesting to further note that that around the time the concerned letter was to reach the petitioner, there were no children either staying with the family. The petitioner's first child is born on the 27th of October 2002. As the petitioner's family has two more closely-related members besides himself, his father and his wife (both well educated), it is not possible that the letter is taken by some resident of the house by mistake. That was how, when after a telephonic conversation with Mr. Daniel G. DePumpo on the 10th of September – the very day, after the first petition was dispatched (receipt in ANNEXURE 7) to the petitioner's US-based well-wisher – a photocopy of the notice first posted in January was mailed again by the Office, it was received very promptly by the petitioner (page 1 and 2 in ANNEXURE 3). This large yellow-colored envelope weighed nearly 350gms – not easy to miss had its original been delivered in the first half of year 2002 by the local postman. To confirm the delivery of any letter, the petitioner had certificates (ANNEXURE 8) from his two technical laboratory assistants and the housekeeper confirming their commitment to the receipt of the delivered mail. All these three staffers work at the premises between 9 a.m. to 6 p.m. The petitioner used to work with Maruti Suzuki and Honda Siel Power Equipments as a design consultant till the end of 2001. His last meeting took place with the Honda engineers and some engineers from Indian Army at Okhla in Delhi on the 9th of January 2002. That was the last time the petitioner went out of his residence on some official work in daytime. Proof of that meeting could be provided, if deemed necessary by the Office. The mail delivery time in the locality where the petitioner stays is between 12 a.m. and 4 p.m. – just once in 24 hours. In year 2002, the petitioner never went out of station. Being out of work, he could ill afford a vacation at this stage.

As mentioned earlier in the proceeds of this petition, the petitioner received a phone call personally from Mr. Daniel G. DePumpo at 5:45 p.m. (Indian Standard Time) on the 10th of September 2002, just an hour after the petitioner had dispatched his first petition to the US address of his well-wisher Dr. Ramesh Bhatia (original copy of courier receipt from India in ANNEXURE 7). This had to be done quickly by the petitioner so that Dr. Ramesh Bhatia could attach a check for \$55-00 on the petitioner's behalf and mail it to the USPTO on the behalf of the petitioner (copy of the mailing receipts in ANNEXURE 7). In his conversation, Mr. DePumpo disclosed that a day before (that is on the 9th of

September), his office tried to fax a copy of the notice to the petitioner, but because his office did not have an international calling facility, and the petitioner had a fax attached to his telephone line, there was a communication gap and Mr. DePumpo's office could not send the fax. The petitioner did get some calls the day before, with complete silence on the other side. The petitioner identifies fax messages by the special tones he receives from the other end, in the absence of a verbal cue from the other end in this regard, and he then activates his fax machine. Strangely, that evening, on the 9th of September 2002, he did not receive any fax tone. The petitioner had a brief discussion over the technical aspects of his application. Mr. DePumpo told the applicant that he vaguely remembered a vehicle with two parallel wheels proposed by the applicant but such an idea already existed. The petitioner told him that he is completely ignorant of what all was given and referred to in the Examiner's Notice, and he would certainly reply to the notice, once he had a copy of that. Mr. DePumpo said that now in any case the letter first has to be considered by the Petitions Department, as the application was held abandoned at that moment. The petitioner then requested Mr. DePumpo to get the message passed on to Ms. Cheryl G. Baylor (mentioned as Ms. Sharon – which was what the petitioner could make of her name over the phone line -- in the first petition) to have a photocopy of the complete Notice mailed to the petitioner. Mr. DePumpo readily agreed to that. After a lapse of couple of minutes, the petitioner received a fax message whose photocopy is in ANNEXURE 9. The petitioner is really thankful to Ms. Cheryl G. Baylor for all her help. The cover of the fax message reads the date as 10 September 2002. After a fortnight, the petitioner, as mentioned earlier in this petition, received a mail with a full copy of the notice, with all the references.

On the 15th of February 2003 the petitioner received THE DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT, in response to which this renewed petition is being sent.

To conclude from the circumstances narrated in the petition and the evidences put forward, it appears that petitioner did not receive the mail in India due to some chance postal miscarriage. It may be remembered that after the events following 9/11/2001, there was a massive alarm regarding anthrax in postal delivery system. The Notice which was mailed on January 15, 2003, was surely contained in a large envelope measuring 24cms X 31cms and approximately would have weighed 350gms (going by the copy of the notice that the petitioner received in September, 2003 after talking to his Examiner Daniel G. DePumpo). In India too the authorities did come across some anthrax-containing postal packets. It is a possibility, that the authorities in India kept the packet away for close inspection and in the process it got stuck somewhere. The petitioner earlier in this petition has discussed the anomalous status of PIN codes regarding his own residential locality (Pitampura) which is a part of the capital of India – which reflects poorly on the logistics of the Indian Postal Services.

The petitioner, therefore, requests the Office to remove the holding of abandonment on his Patent Application No.09/781,090, filed on January 12, 2001. For reference, the petitioner is pleased to give his other Patent Application No.09/933,542, filed on 21st August 2001, which the petitioner is still prosecuting as an applicant due to the timely

receipt of the Examiner's Notice, in spite of all-round claim rejections by the Examiner. The petitioner has another Provisional Patent Application No.60/384,679, filing date 3rd June 2002 in process of a non-provisional filing.

In addition, the petitioner would just like to repeat his position that in the situation of his having received a Notice for Revised Publication Date for his Application No.09/781,090 in the middle of September 2002 (copy of the projected publication date on Filing Receipt and Notice of New or Revised Projected Publication Date mailed on 08/08/2002 in ANNEXURE 10), he had no inkling of his Application No.09/781,090 being in the process of abandonment (refer to the Notice of Abandonment from the Office of the Examiner Daniel G. DePumpo, mailed on 08/26/02). Had he not received the Notice (ANNEXURE 11) stating projected publication of his Application No.09/781,090; and had he known the name of his Examiner somehow from a prior Notice from the Examiner's Office, he would have tried to ascertain the status of his Application No.09/781,090.

The petitioner is available round the clock on the following telephone number 91 11 2731 5628. He can be contacted any time to obtain any further details regarding the points mentioned in this petition.

Lastly, he would like to discuss some details shown on the map of which his colony Vaishali is a part (ANNEXURE 11, page 1). From a manual survey conducted by the petitioner it appears that the areas shown with BLUE hatch have PIN code 110034 and the areas shown with RED hatch have PIN code 110088. The data was collected by noting the PIN code printed on the letterboxes erected by the Indian Postal Services at various places at PITAMPURA. The map in ANNEXURE 1 is taken from a popular city map called EICHER CITY MAP (page 18).

Thank you,

Anadish Kumar Pal

(Anadish Kumar Pal)
Application No.09/781,090
Filing Date 12 January, 2001

03/11/2003

ADDRESS FOR CORRESPONDENCE

Anadish Kumar Pal
194 Vaishali
Pitampura
Delhi - 110088
INDIA

Telephone 91 11 2731 5628

Fax 91 11 2731 5628

Enclosures: -

ANNEXURE 1: Proof of residence – 2 pages

ANNEXURE 2: 5 Nos. of actual letters/covers – in effect 10 pages

ANNEXURE 3: Photocopies of 3 Nos. 24cms X 31cms covers – 6 pages

ANNEXURE 4: Photocopies of 11 Nos. 10.5cms X 31cms covers – 22 pages

ANNEXURE 5: 6 Nos. of actual printouts from a search for local PIN on the net

ANNEXURE 6: 2 pages of the front covers of the files storing entire USPTO documents

ANNEXURE 7: 1 No. Actual courier receipt and 2 pages of US mailing receipt photocopies

ANNEXURE 8: 3 certificates of Committed Mail Receipt by technical and domestic staff

ANNEXURE 9: Photocopy of faxed Examiner's Notice on 9/10/02 – 7 pages

ANNEXURE 10: Photocopy of Filing Receipts, Notice of NORPP Date and Decision on Petition to Withdraw the Holding of Abandonment – 7 pages

ANNEXURE 11: Photocopy from Eicher City Map (page 18) showing petitioner's residential locality with areas marked with probable PIN codes after investigation by the petitioner.

APPLICATION for CHANGE OF CORRESPONDENCE ADDRESS

Anadish Kumar Pal

(Anadish K. Pal)

Application No.09/781,090